

## INITIAL CONFERENCE QUESTIONNAIRE

CASE NAME: Suris v. Mindgeek Holdings Sarl et al. DOCKET NO.: 20-cv-00284-CBA-RML

1. Date for completion of automatic disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure, if not yet made:

Plaintiff's Position: 5/12/20

Defendant's Position: Plaintiff may serve his initial disclosures on or before May 12, 2020. Defendant MindGeek USA Incorporated (erroneously sued as "Mindgeek Los Angeles") ("MGUSA"), however, has filed a request for a pre-motion conference on its anticipated motion to dismiss Plaintiff's complaint, for lack of personal jurisdiction, lack of subject matter jurisdiction, and for failure to state a claim under Rule 12(b)(6).<sup>1</sup> See ECF No. 9. One of the primary bases of MGUSA's motion is that Plaintiff has not sued the correct party. *Id.* Judge Amon has not yet set a date for that pre-motion conference. MGUSA therefore believes it would not be appropriate to serve any initial disclosures until Judge Amon has ruled on its forthcoming motion to dismiss. To the extent any of Plaintiff's claims are permitted to proceed against MGUSA, it will serve initial disclosures within twenty-one (21) days of the filing of its Answer to any remaining claims.

2. If additional interrogatories beyond the 25 permitted under Rule 33(a) of the Federal Rules of Civil Procedure are needed, the maximum number by:

Plaintiff's Position: 50.

Defendant's Position: MGUSA does not believe any interrogatories should be permitted until after a resolution of its motion to dismiss. To the extent the Court permits any claims to proceed, MGUSA does not believe that this case warrants any expansion of the number of interrogatories beyond the 25 permitted for each party by Rule 33(a).

3. Maximum number of requests for admission by:

Plaintiff's Position: 100

Defendant's Position: MGUSA does not believe any requests for admission should be permitted until after a resolution of its motion to dismiss. To the extent the Court permits any claims to proceed, MGUSA requests that it be permitted to serve up to 100 RFAs on Plaintiff.

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<sup>1</sup> Plaintiff has also purported to sue an entity called "MindGeek Holding SARL," but not such company exists.

4. Number of depositions by plaintiff(s) of:  
parties 4 (Plaintiff's Position) non-parties 2 (Plaintiff's Position)

5. Number of depositions by defendant(s):

MGUSA does not believe that any depositions should be permitted until after a resolution of its motion to dismiss. To the extent the Court permits any claims to proceed, MGUSA requests that it be permitted to take a combined total of 10 party and non-party depositions. MGUSA further reserves the right to seek leave to take more depositions in the event that circumstances so warrant, including, for example, if additional plaintiffs are named in this lawsuit.

6. Time limits for depositions:

Plaintiff's Position: On or before 9/30/20

Defendant's Position: MGUSA does not believe that any depositions should be permitted until after a resolution of its motion to dismiss. To the extent the Court permits any claims to proceed, MGUSA believes that depositions should be limited to seven hours on the record, and should be completed within ten months from the latest date a defendant files an Answer in this litigation. MGUSA does not believe that in light of the travel restrictions still in place it will be feasible to complete depositions by the end of September.

7. Date for completion of factual discovery:

Plaintiff's Position: 11/15/20

Defendant's Position: MGUSA does not believe that an exact end-date for fact discovery can be set at this time, in light of MGUSA's pending motion to dismiss. To the extent the Court permits any claims to proceed, MGUSA believes that the date for completion of factual discovery should be set at approximately 12 months from the latest date a defendant files an Answer in this litigation.

8. Number of expert witnesses of plaintiff(s):  
medical 0 (Plaintiff's Position) non-medical 1 (Plaintiff's Position)

Date for expert report(s): 12/15/20 (Plaintiff's Position)

9. Number of expert witnesses of defendant(s):  
medical Unknown at this time (Defendant's Position)  
non-medical Unknown at this time (Defendant's Position)

Date for expert report(s): MGUSA does not believe that an exact date for the exchange of expert reports can be set at this time, in light of MGUSA's pending motion to dismiss. To the extent the Court permits any claims to proceed, MGUSA believes that the date for

the exchange of expert reports should be set at approximately 14 months from the latest date a defendant files an Answer in this litigation.

10. Date for completion of expert discovery:

Plaintiff's Position: 1/31/21

Defendant's Position: MGUSA does not believe that an exact end-date for expert discovery can be set at this time, in light of MGUSA's pending motion to dismiss. To the extent the Court permits any claims to proceed, MGUSA believes that the date for completion of factual discovery should be set at approximately 16 months from the latest date a defendant files an Answer in this litigation.

11. Time for amendment of the pleadings:

Plaintiff's Position: Plaintiff adopts the Defendant's position below.

Defendant's Position: MGUSA does not object to Plaintiff having a deadline of June 30, 2020 to amend its Complaint. However, MGUSA does not believe that a deadline for MGUSA (or any future defendant) to amend its pleadings can be set at this time. To the extent the Court permits any claims to proceed, MGUSA believes that the date for any defendant to amend its pleadings should be set at approximately 6 months from the latest date a defendant files an Answer in this litigation.

12. Number of proposed additional parties to be joined, and time for completion of joinder:

Plaintiff's Position: Up to 4 proposed additional parties 60 days prior to the completion of discovery.

Defendant's Position: MGUSA believes that any proposed additional parties anticipated by Plaintiff should be added (to the extent leave is granted) as soon as reasonably practicable. MGUSA does not currently anticipate adding any additional parties.

13. Types of contemplated dispositive motions:

14. Plaintiff's Position: Summary Judgment

15. Defendant's Position: MGUSA is presently intending to file a motion to dismiss Plaintiff's claims in their entirety, and has requested a pre-motion conference on such motion with Judge Amon. If this action proceeds beyond that motion, MGUSA would also anticipate filing a motion for summary judgment.

16. Dates for filing contemplated dispositive motions:

Plaintiff's Position: 4/15/21

Defendant's Position: MGUSA plans on filing its motion to dismiss following a pre-motion conference with Judge Amon. A date for that conference has not yet been set. If this action proceeds beyond that motion, MGUSA believes the date by which any defendant should file its remaining dispositive motions should be set at approximately 18 months for the latest date a defendant files an Answer in this litigation.

17. Have counsel reached any agreements regarding electronic discovery? If so, please describe at the initial conference.

The parties have not yet reached any agreements regarding electronic discovery.

18. Will the parties<sup>2</sup> consent to trial before a magistrate judge pursuant to 28 U.S.C. §636? (Answer no if any party declines to consent without indicating which party has declined.)  
Yes \_\_\_\_\_ No   X

19. This case should be ordered to arbitration at the close of discovery \_  
      No      (yes/no)

20. This case should be ordered to mediation (now or at a later date)  
Plaintiff's Position:       No      (yes/no)

Defendant's Position: Yes

21. (Prior to the Initial Conference, counsel shall discuss with their clients and their adversaries whether arbitration or mediation is appropriate in this case and be prepared to explain their reasons to the court)

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<sup>2</sup> The fillable consent form AO 85 may be found at [https://www.nyed.uscourts.gov/forms/all-forms/general\\_forms](https://www.nyed.uscourts.gov/forms/all-forms/general_forms) and may be filed electronically upon completion prior to the initial conference, or brought to the initial conference and presented to the Court for processing.